



1951.

File No. B Prev. of
fragmentation
/51

Legal Dept

B BRANCH

Subject:— L.A. Bill No XLI of 1951

A Bill to amend the Bombay
Prevention of Fragmentation and
Consolidation of Holdings
Act 1951

Bom. Act No. XXXI of 1951

$\frac{V.S.}{E}$

B. Prev. of fragmentation/51

File No.

Gen. 1948

814-13

7

No.175-L
Legal Department,
Council Hall, Poona, 17th September 1951.

From Shri J.R. Dhurandhar,
Secretary to the Government of Bombay.

To The Secretary to the Governor of Bombay.

Subject:- The Bombay Prevention of Fragmentation
and Consolidation of Holdings (Amendment)
Bill, 1951-.

Sir, With reference to article 200 of the Constitution of India, I am directed to forward herewith for the assent of His Excellency the Governor the authentic copy of the Bombay Prevention of the Fragmentation and Consolidation of Holdings (Amendment) Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 27th August 1951 and the 1st September 1951, respectively.

2. The subject-matter of the Bill falls under entries 18 and 36 in List II in the Seventh Schedule to the Constitution of India. It is not necessary to reserve the Bill for the consideration of the President with reference to article 31 (3) or 254(2) or any other article of the Constitution of India.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one copy of each of the items

- | | |
|--|---------------------|
| 1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons | Nos. 1, 2 and 4 and |
| 2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council. | two copies of item |
| 3. Bill as read for the third time and passed by the Bombay Legislative Council. | No. 3 |
| 4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 27th August, 1951, and of the Bombay Legislative Council dated the 1st September 1951. | of the |

papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,
Sd/ 18-9
Secretary to Government.

Through: The Secretary to the Government of Bombay,
Revenue Department.

M.A.D.
17-7-56
C.4

NoG.S.

FROM THE SECRETARY TO THE GOVERNOR OF BOMBAY

To The Secretary to Government,
Legal Department.

GOVERNMENT HOUSE.

September 24, 1951.

~~CANESKIND.~~

Poona 7;

Subject:- The Bombay Prevention of Fragmentation
and Consolidation of Holdings (Amend-
ment) Bill, 1951.

Sir,

With reference to your letter No. 175-L, dated
September 17, 1951, I am directed to return herewith
the authentic copy of the Bombay Prevention of Fragment
ation and Consolidation of Holdings (Amendment) Bill,
signified thereon.

Yours faithfully,

Sd/-

Secretary to the Government
of Bombay .

M.R.D.
17-7-56
C.4

Office of the R.L.A.

The proposed amendment is expedient and necessary from the legal point of view. A requisite draft Bill is sent herewith.

2. The subject-matter of the Bill falls under entries 18 and 36 in List II in the 7th Schedule to the Constitution.

3. The Bill does not require any sanction or recommendation.

Sd/-
27-7

Remembrancer of Legal Affairs.

U.R. to R.D.No.12028, dated the 27th July 1951.

M.R.D.
17-7-56
C.4

Legal Department.

It appears that one Shri Madhao Trimbak Wani holds Survey No. 93 measuring 4 acres and 18 gunthas assessed for agriculture. He has applied for permission to use 2 acres from his holding for building purposes. If his request is granted the remaining area would be less than the standard area determined under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. The questions raised for the R.L.A.'s consideration are whether by permitting the non-agricultural use of 2 acres of land the Prant Officer will indirectly allow the creation of fragment and whether his action would be contrary to the provisions of section 8 or any other provisions of the Act.

Section 8 of the Bombay prevention of Fragmentation and Consolidation of Holdings Act, 1947 provides that no land in any local area shall be transferred or partitioned so as to create fragment. "Fragment" as defined in section 2(4) means a plot of land of less extent than the appropriate standard area determined under this Act. It is clear from these provisions that what is prohibited by section 8 is the transfer or partition of land so as to create a fragment. The term "transfer" means 'to convey or to pass the right of one person over to another' and 'partition' means a division between co-owners (whether coparceners, joint tenants in common) of lands, tenements, hereditaments held by them, the effect of such division being that the joint ownership is terminated and the shares of the parties vested in them in severalty. (See Iyer's Law Lexicon). The conversion of a part of the agricultural land for a non-agricultural purpose involves neither transfer nor partition. Consequently, section 8 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 would not be attracted and there would be no legal objection to the Prant Officer granting permission to Shri Madhao to convert 2 acres from his holding for a non-agricultural purpose and it would not be contrary to the provisions of the Act.

ACTS.
Publication of the
Bombay Prevention of Fragmentation and Consolidation of
Holdings(Amendment) Act, 1951.

GOVERNMENT OF BOMBAY
Legal Department
Resolution No.219-L
Council Hall, Poona, 25th September 1951.

Letter to the Secretary to the Governor, No.175-L, dated the 17th September 1951.

Letter from Secretary to the Governor, No.G.S.242, dated the 24th September 1951.

"With reference to your letter No.175-L, dated September 17, 1951, I am directed to return herewith the authentic copy of the Bombay Prevention of Fragmentation and Consolidation of Holdings(Amendment) Bill, 1951, with His Excellency the Governor's assent signified thereon."

RESOLUTION:- The law should be published as Bombay Act NoXXXI of 1951, in the Bombay Government Gazette dated the 26th September 1951.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A Copy of the Act should be forwarded to the Revenue Department with reference to the Memorandum from that Department No7907/49-II-L, dated the 17th August 1951.

By order of the Governor of
Bombay,

Sd/-

K.J.PATHARE, I,
Assistant Secretary to Government.

To

The Manager Government Central Press, Bombay
copy of the Act and with a request that 30 Gazette
copies of the Act may be forwarded to the Legal
Department and 10 copies to the Revenue Department).

The Revenue Department,
*The Oriental Translator to Government
The Bombay Legislature Department
The Bombay Legislature Department
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat,
Bombay.

} with a
copy of
the Act.

*With four extra copies of the Act.